

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MARYLAND

3 - - -  
4 EQUAL EMPLOYMENT OPPORTUNITY: CASE NO.  
COMMISSION, :

5 Plaintiff, : WDQ-02-CV-648

AND :

6 KATHY C. KOCH, :

Plaintiff-Intervenor, :

7 V. :

8 LA WEIGHT LOSS, :

9 Defendant :

10  
11 - - -  
12 September 25, 2003  
13 - - -  
14

15 Oral deposition of LYNNE E.  
16 PORTLOCK, held in the offices of Esquire  
Deposition Services, Suite 760, One  
17 Commerce Center, Wilmington, Delaware  
19801 commencing at 10:10 a.m., on the  
18 above date, before Shenna M. Basye-Cara,  
a Professional Reporter and a Notary  
Public in the State of Delaware.

19 - - -  
20  
21 ESQUIRE DEPOSITION SERVICES  
22 1880 John F. Kennedy Boulevard  
15th Floor  
Philadelphia, Pennsylvania 19103  
23 (215) 988-9191  
24

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1 employment you were?  
 2 A. Uh-huh.  
 3 Q. When did that change?  
 4 A. Maybe -- didn't fully  
 5 change. She would just relay and I let  
 6 her make -- I always knew before she  
 7 hired, who she was hiring, so probably  
 8 towards her last training. I'm not sure.  
 9 Q. So it's a fair statement  
 10 then that throughout Ms. Koch's  
 11 employment, her hiring conduct would  
 12 always be subject to your review before  
 13 someone would get hired?  
 14 A. In some nature, yes.  
 15 Q. How was her job performance,  
 16 in your view?  
 17 A. At what period? At any  
 18 given time?  
 19 Q. Do you have different  
 20 opinions based on the time?  
 21 A. Yes.  
 22 Q. Okay. Well, let's start  
 23 with the -- are we talking two different  
 24 periods or three or four?

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1 A. Well, it progressively  
 2 declined, decreased.  
 3 Q. How was it in the beginning?  
 4 A. It was okay for someone  
 5 new. It was fine.  
 6 Q. Was there anything in  
 7 particular that was okay or fine? I  
 8 mean, what are you basing that on?  
 9 A. Basing it on her knowledge  
 10 of the program, what she came from, her  
 11 training, from her knowledge of what she  
 12 knew. That was okay. She had the gist  
 13 of what she needed to do from her  
 14 training.  
 15 Q. Did you ever hold the  
 16 opinion that she was a good employee?  
 17 A. I didn't have time to form  
 18 an opinion. She wasn't employed that  
 19 long.  
 20 Q. Did you ever tell anyone  
 21 that she was a good employee?  
 22 A. Not that I remember, no.  
 23 Q. Do you remember telling the  
 24 EEOC investigator who interviewed you

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1 that at the time you gave Ms. Koch a  
 2 written warning, you considered her to be  
 3 a good employee?  
 4 A. I could have said that. I  
 5 don't remember specifically.  
 6 Q. Is that true?  
 7 A. Is what true?  
 8 Q. That statement. That at the  
 9 time you gave Ms. Koch a written warning,  
 10 you considered her to be a good  
 11 employee.  
 12 A. Well, if I said it, it would  
 13 be true.  
 14 Q. Did you ever hear anyone  
 15 express an opinion -- first of all, did  
 16 you ever hear any of your superiors  
 17 express an opinion about Kathy Koch?  
 18 A. Not that I remember, no.  
 19 Q. Was Ms. Koch fired or did  
 20 she resign?  
 21 A. I believe she was  
 22 terminated.  
 23 Q. She was fired?  
 24 A. Fired.

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1 Q. Who fired her?  
 2 A. I did.  
 3 Q. Anyone else?  
 4 A. No.  
 5 Q. Did you consult with anyone  
 6 about her firing before you fired her?  
 7 A. Consult meaning...  
 8 Q. Did you have any  
 9 communication with anyone about her  
 10 status as an employee or your intention  
 11 to fire her before you fired her?  
 12 A. Yes.  
 13 Q. Who?  
 14 A. Eileen Stankunas.  
 15 Q. What was her position at the  
 16 time?  
 17 A. She was above me, so I'm not  
 18 quite sure and I don't remember.  
 19 Q. General manager? Does that  
 20 sound right?  
 21 A. Could be.  
 22 Q. What was said during that  
 23 communication with Ms. Stankunas?  
 24 A. I left her know that the

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1 cards that we had did and the training  
 2 was becoming a flop. It wasn't working  
 3 out the way it should be and Kathy was  
 4 not following through with the training.  
 5 Q. We'll talk about that in a  
 6 second. What was Ms. Stankunas'  
 7 reaction?  
 8 A. She asked me what I decided  
 9 to do about it and I told her.  
 10 Q. That you were going to fire  
 11 Ms. Koch?  
 12 A. Correct.  
 13 Q. Did you all talk about  
 14 anything else?  
 15 A. As in reference I asked her  
 16 could she come and sit with me, because I  
 17 wanted to have a witness there. She said  
 18 she couldn't make it down at that point.  
 19 When I did fire Kathy, that she could get  
 20 someone for me to have as a witness on  
 21 speakerphone with me.  
 22 Q. Why did you want a witness?  
 23 A. Because I always want a  
 24 witness. That way there's no

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1 miscommunication of what happens or what  
 2 is said in the middle of a firing.  
 3 Q. So you fired other people?  
 4 A. Maybe one, but that would  
 5 be -- I had other jobs before LA Weight  
 6 Loss Center.  
 7 Q. But at LA Weight Loss you  
 8 fired other people?  
 9 A. Probably, yes.  
 10 Q. Do you have recollection of  
 11 firing anyone? Ms. Bartel? Did you fire  
 12 Ms. Bartel?  
 13 A. No. I offered her another  
 14 position. She declined the position.  
 15 Q. Oh, so you did not --  
 16 A. So I didn't fire her. I  
 17 demoted her.  
 18 Q. So your testimony is that  
 19 you offered Ms. Bartel another position,  
 20 she declined to take it, so then her  
 21 employment ended.  
 22 A. Correct.  
 23 Q. So you're contrasting that  
 24 with Ms. Koch. You did not offer Ms.

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1 Koch another position.  
 2 A. No. I did not offer her  
 3 another position.  
 4 Q. Was there a witness at this  
 5 meeting with Ms. Bartel?  
 6 A. No. I don't think so.  
 7 Q. Did you communicate with  
 8 Christy O'Brien before you fired Ms.  
 9 Koch?  
 10 A. No.  
 11 Q. Did you discuss Ms. Koch's  
 12 employment with Ms. O'Brien at all prior  
 13 to firing Ms. Koch?  
 14 A. No.  
 15 Q. Was there any discussion  
 16 with Ms. O'Brien of problems with Ms.  
 17 Koch?  
 18 A. No.  
 19 Q. Okay. You fired her. You  
 20 talked to Ms. Stankunas before you fired  
 21 Ms. Koch and then you fired her. Why?  
 22 Why did you fire Ms. Koch?  
 23 A. Should I tell the sequence  
 24 of events or just --

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1 Q. You're free to tell the  
 2 sequence of events if you choose to do  
 3 so.  
 4 A. The initial reason for  
 5 firing was poor job performance after  
 6 making an attempt for her to be  
 7 successful at the second training.  
 8 Q. So there was a performance  
 9 issue and then there was an attempt to  
 10 correct that that involved a second  
 11 training?  
 12 A. Correct.  
 13 Q. What were the performance  
 14 issues? And I'm assuming -- well, I'm  
 15 not going to assume. It's true, is it  
 16 not, that you gave -- before you fired  
 17 Ms. Koch you gave her a written warning?  
 18 A. That is correct.  
 19 Q. What were the concerns that  
 20 led to that warning?  
 21 A. The knowledge of what the  
 22 staff had to come know to train (sic).  
 23 Q. What about it?  
 24 A. They didn't know anything.

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1 Q. Because you read the letter?  
 2 A. Yes.  
 3 Q. Not following -- not  
 4 followed company hiring policy, what did  
 5 you understand her to mean by that?  
 6 A. I didn't. I didn't  
 7 understand, because this had nothing to  
 8 do with her warning.  
 9 Q. Did you ask her what she  
 10 meant by that?  
 11 A. I think I more or less  
 12 concentrated on the sexual harassment.  
 13 Q. So you didn't -- you didn't  
 14 ask her --  
 15 A. I may have. I may not. I  
 16 know I concentrated on the sexual  
 17 harassment.  
 18 Q. Did she say what she meant  
 19 by following company hiring policy -- or  
 20 not following --  
 21 A. I don't remember. I don't  
 22 remember.  
 23 Q. Did you ever receive  
 24 training on equal employment opportunity

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1 Q. Yes.  
 2 A. No.  
 3 Q. But you had training on it  
 4 in a class --  
 5 A. Before.  
 6 Q. -- prior to coming to LA  
 7 Weight Loss, correct?  
 8 A. Yes.  
 9 Q. And you knew that  
 10 discrimination was against the law,  
 11 correct?  
 12 A. Yes.  
 13 Q. And you knew that  
 14 discrimination against male job  
 15 applicants was against the law, correct?  
 16 A. Yes.  
 17 Q. From that class that you  
 18 took prior to coming to LA Weight Loss,  
 19 right?  
 20 A. Yes.  
 21 Q. And you also knew that  
 22 retaliation was illegal under federal  
 23 law, correct?  
 24 A. Yes.

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1 or discrimination law when you were an  
 2 employee at LA Weight Loss?  
 3 A. Yes.  
 4 Q. Was that -- when did you  
 5 receive that training?  
 6 A. When Sandy Miller -- in the  
 7 very beginning when Sandy Miller was  
 8 still working the payroll department.  
 9 Q. Did they talk about  
 10 retaliation in that training?  
 11 A. I don't remember. I know  
 12 it's -- she -- my training was, they --  
 13 the posters that you hang up. We had to  
 14 read it. You read it. That was the  
 15 training. We were told, every new  
 16 employee, make sure you read through it  
 17 with them. So I'm assuming there was  
 18 retaliation on there. I don't know.  
 19 Q. Did you receive instruction  
 20 on equal employment opportunity or  
 21 discrimination other than what was in  
 22 that poster? Other than reading the  
 23 poster, did you --  
 24 A. At this time and date?

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1 Q. You knew that, for example,  
 2 an employee could not be penalized in any  
 3 way because they contacted the EEOC,  
 4 correct?  
 5 A. That's correct.  
 6 Q. And you also knew that an  
 7 employee could not be penalized or  
 8 adversely affected in some way because  
 9 they had complained internally about what  
 10 they believed to be discrimination,  
 11 correct?  
 12 A. That is correct.  
 13 Q. You knew all of this at the  
 14 time that you fired Kathy Koch, right?  
 15 A. But they weren't the reasons  
 16 why I fired Kathy Koch.  
 17 Q. I didn't ask that.  
 18 A. Okay. Yes.  
 19 Q. So you knew all this --  
 20 A. Yes.  
 21 Q. -- at the time you fired  
 22 Kathy Koch? Yes?  
 23 A. Yes.  
 24 Q. What was it about the

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1 training -- there was a specific training  
 2 that you claim led to Kathy Koch's  
 3 firing, correct, her last training?  
 4 A. Yes.  
 5 Q. What was it about that  
 6 training?  
 7 A. She didn't follow the  
 8 complete training, the cards, the --  
 9 everything was -- it was set there. It  
 10 was right -- you couldn't have messed it  
 11 up.  
 12 Q. What was it about the cards  
 13 that she didn't follow? What were the  
 14 subjects that she didn't follow?  
 15 A. I don't remember  
 16 specifically.  
 17 Q. Did you ever know?  
 18 A. Yes.  
 19 Q. Just one or two more  
 20 questions and then I'm done, Ms.  
 21 Portlock.  
 22 How did you feel when you  
 23 read -- the first time you read Portlock  
 24 Exhibit-4, how did that make you feel?

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1 A. I was confused.  
 2 Q. Were you angry?  
 3 A. No.  
 4 Q. You were angry, weren't you?  
 5 A. No.  
 6 Q. You were being accused of  
 7 discrimination.  
 8 A. I didn't understand.  
 9 What -- my first reaction, what you asked  
 10 me was that, how did you first feel, I  
 11 was confused.  
 12 Q. Then when it was explained  
 13 to you, how did you feel?  
 14 A. Well, it wasn't explained to  
 15 me. I called and -- made a call to the  
 16 Department of Labor to ask them what my  
 17 rights were and what I could do.  
 18 Q. And they explained to you  
 19 what sexual harassment could be, correct?  
 20 A. Re-explained it to me yes.  
 21 Q. Then how did you feel about  
 22 Kathy Koch's letter?  
 23 A. I was still confused,  
 24 because then I had to talk to her to ask

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1 her specifically, what did she mean by  
 2 the sexual harassment.  
 3 Q. Then she told you, right?  
 4 A. Yes.  
 5 Q. Then how did you feel about  
 6 it? You were angry, weren't you?  
 7 A. No. I don't get angry. Not  
 8 like that.  
 9 Q. You're being accused of  
 10 discrimination, of sexually harassing a  
 11 fellow female worker, and you were not  
 12 angry?  
 13 A. No. Actually, what I did  
 14 was, I apologized to her because that's  
 15 what the law allows me to do, is to  
 16 rebuttal my statement and take it back,  
 17 because she misinterpreted it or she felt  
 18 one way and I had no idea. And I'm  
 19 allowed to ask for the interpretation of  
 20 what she interpreted and what I  
 21 interpreted, and I apologized. From  
 22 there, what happened after that had  
 23 nothing -- the conversation ended.  
 24 Q. So you were not angry that

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1 she had made this allegation about you?  
 2 MR. LANDAU: Asked and  
 3 answered.  
 4 THE WITNESS: No.  
 5 BY MR. PHILLIPS:  
 6 Q. Were you upset?  
 7 A. What do you mean by upset?  
 8 Q. Were you emotionally  
 9 troubled?  
 10 A. No.  
 11 Q. You were not emotionally  
 12 troubled about being called a sexual  
 13 harasser?  
 14 MR. LANDAU: Objection. It  
 15 says what it says. That's not  
 16 what it says.  
 17 THE WITNESS: What do you  
 18 mean by emotionally troubled? I'm  
 19 sorry.  
 20 BY MR. PHILLIPS:  
 21 Q. Sad.  
 22 A. Sad isn't the word.  
 23 Q. What is the word?  
 24 A. I felt betrayed.

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12 November 6, 2003  
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1 Q. Let me hand back to you --  
 2 I'm taking a minor detour here. Let me  
 3 hand back to you a photocopy of the  
 4 transcript of your interview on April 27,  
 5 2000 with the EEOC attended by yourself,  
 6 Judy Navarro, Regina Andrew, and Amy  
 7 Miraglia. I take it from your earlier  
 8 remarks that you have seen this document?

9 A. Yes.

10 Q. And you've reviewed it  
 11 recently? You've read it?

12 A. Not the entire -- I mean, I  
 13 don't -- not the entire packet, no.

14 Q. Within this transcript I  
 15 have read your description of a  
 16 conversation with the Department of Labor  
 17 in Delaware where you appear to describe  
 18 questions about sexual harassment that  
 19 appear to you or occurred to you upon  
 20 your receipt of Exhibit-14.

21 A. That would be correct.

22 Q. Do you recall now what  
 23 subjects of discussion or subjects of  
 24 concern you raised with the Department of

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1 of Labor because I didn't understand what  
 2 she was clarifying as sexual harassment.  
 3 So when I called them up I read them the  
 4 letter, so they helped me clarify it.  
 5 And I said: What do I do as the  
 6 employer, because apparently there's been  
 7 a miscommunication. Apparently,  
 8 something broke down.

9 She said: Well, you have  
 10 to -- you should call the person, have a  
 11 conversation with them, have them explain  
 12 to you what they meant by -- verbally  
 13 explain to you what they mean by "sexual  
 14 harassment" and then you have to recant  
 15 your statement, and that I did.

16 Q. Did you read the entire  
 17 letter to the individual at the  
 18 Department of Labor or just Point No. 5  
 19 appearing on the third page of  
 20 Exhibit-14?

21 A. I don't remember.

22 Q. Did you share with the  
 23 individual you called at the Department  
 24 of Labor the information in the very

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1 Labor in Delaware, if any, in addition to  
 2 or other than the issues or questions  
 3 about sexual harassment?

4 A. I remember it vividly. I  
 5 don't have to read that.

6 Q. Describe the conversation  
 7 for me.

8 A. I didn't understand -- I  
 9 called the Department of Labor because I  
 10 didn't understand where she was feeling  
 11 that way. I didn't understand that, so I  
 12 called the Department of Labor to have  
 13 them clarify it for me, and I did.

14 Q. What do you mean by "that"?

15 A. Here it is right here.  
 16 Point 5.

17 Q. Referring to the third  
 18 page. Read it for me.

19 A. Finally, when you've done  
 20 everything possible to break my morale,  
 21 then you subjected me to several  
 22 incidents of intolerable, humiliating  
 23 sexual harassment.

24 So I called the Department

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1 first paragraph of this letter that Ms.  
 2 Koch believed that you were creating a  
 3 fallacious paper trail to achieve unknown  
 4 alternate purposes, since I have not  
 5 followed company hiring policy?

6 A. I don't remember.

7 Q. What did you understand that  
 8 to mean?

9 A. That she thought I was doing  
 10 a paper trail on her because she wasn't  
 11 following company hiring policy.

12 Q. How was she not --

13 A. Whatever -- I have no clue  
 14 what she was interpreting that as.

15 Q. Did you ask her?

16 A. No, because I was concerned  
 17 about the sexual harassment which I  
 18 interpreted at that time was what she  
 19 felt bothered her, that -- that incident  
 20 that happened the day that she was given  
 21 the written warning.

22 Q. Did you ask Ms. Koch or  
 23 discuss with Ms. Koch anything as to  
 24 points one, two, three, or four?

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1 paper. She's only had one written  
 2 warning. She's had verbal warnings.  
 3 She's telling you right here she's had a  
 4 verbal warning. That's not a sexual  
 5 harassment.  
 6 Q. Did you raise that objection  
 7 to the use of the term "fallacious paper  
 8 trail" with Ms. Koch when you called  
 9 her --  
 10 A. No. Wanted I --  
 11 Q. -- after you -- after you --  
 12 after your --  
 13 A. No.  
 14 Q. -- receipt of this letter?  
 15 A. No.  
 16 Q. The only subject that you  
 17 expected to address with Ms. Koch about  
 18 this letter dated March 8 and that you  
 19 did address with her was your question  
 20 about the sexual harassment Point No. 5;  
 21 is that correct?  
 22 A. Correct.  
 23 Q. You spoke about this letter  
 24 and/or subjects within this letter with

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1 the Department of Labor.  
 2 A. Yes.  
 3 Q. And you asked about sexual  
 4 harassment.  
 5 A. Correct.  
 6 Q. You spoke about this letter  
 7 or subjects within this letter with  
 8 Eileen Stankunas.  
 9 A. Correct.  
 10 Q. When did you do that?  
 11 A. Immediately when I received  
 12 the letter. No. After I called the  
 13 Department of Labor. I called them  
 14 first.  
 15 Q. Then you called Eileen  
 16 Stankunas?  
 17 A. Yes.  
 18 Q. Why did you call Eileen  
 19 Stankunas?  
 20 A. Because she was my  
 21 supervisor and that's who I reported to.  
 22 Q. Did you send her a fax copy  
 23 of this letter or arrange to get a copy  
 24 of this letter to Ms. Stankunas?

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1 A. I would assume so, but I  
 2 can't definitely tell you.  
 3 Q. Did you describe or  
 4 characterize the letter to Ms. Stankunas?  
 5 A. I read the entire letter to  
 6 Ms. Stankunas.  
 7 Q. And did she respond to the  
 8 recitation?  
 9 A. Yes. She said to get it to  
 10 human resources or give it to Karen or  
 11 call human resources and that's what I  
 12 did.  
 13 Q. Do you recall that Karen  
 14 Siegel was not assigned to human  
 15 resources until long after March 8, 1998?  
 16 MR. LANDAU: Object to the  
 17 form of the question.  
 18 BY MS. WHITE:  
 19 Q. Do you recall when Karen  
 20 Siegel was assigned to human resources?  
 21 A. No.  
 22 Q. Would it refresh your  
 23 recollection that it wasn't until after  
 24 March of 1998?

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1 A. Okay.  
 2 Q. Have you spoken with Karen  
 3 Siegel at any point in time about Ms.  
 4 Koch's complaints and issues with the  
 5 company hiring policy?  
 6 A. Yes.  
 7 Q. When?  
 8 A. Sometime after I -- I  
 9 believe -- well, I believe it was -- I  
 10 talked to someone from human resources  
 11 after she was terminated.  
 12 Q. Who?  
 13 A. I believe it was Karen  
 14 Siegel.  
 15 Q. For what purpose did you  
 16 talk to someone?  
 17 A. Because I have to send in  
 18 one of these forms saying they're  
 19 terminated and I have to make sure I hand  
 20 in any papers and who they went to.  
 21 Q. Did anyone from human  
 22 resources --  
 23 A. Yes.  
 24 Q. -- ask you for



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1 documentation --  
 2 A. Yes.  
 3 Q. -- specifically?  
 4 A. Yes.  
 5 Q. Who asked you for  
 6 documentation?  
 7 A. I don't remember. I'm  
 8 saying it was Karen Siegel. I could be  
 9 wrong.  
 10 Q. What else did Ms. Stankunas  
 11 say about this letter or in response to  
 12 your reading the letter to her?  
 13 A. There wasn't. We didn't  
 14 have too much time to talk.  
 15 Q. Did you have any subsequent  
 16 discussions with Eileen Stankunas about  
 17 either the contents of this letter or the  
 18 fact that Ms. Koch was making a complaint  
 19 to the EEOC?  
 20 A. No.  
 21 Q. Did you ever have a  
 22 conversation with Eileen Stankunas about  
 23 the fact that Ms. Koch was making a  
 24 complaint to the EEOC?

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1 A. No.  
 2 Q. Did Ms. Stankunas at any  
 3 time inform you that the company had  
 4 decided to undertake an investigation of  
 5 Ms. Koch's complaint?  
 6 A. No.  
 7 Q. Did Ms. Stankunas or anyone  
 8 at the company inform you that the  
 9 company was trying to decide whether to  
 10 undertake an investigation of Ms. Koch's  
 11 complaint?  
 12 A. No.  
 13 Q. Did counsel ever inform you  
 14 that an investigation was or was not  
 15 going to take place as a result of Ms.  
 16 Koch's complaint?  
 17 A. No. The only time I talked  
 18 to them was right before questioning, so  
 19 that could be a yes and a no.  
 20 Q. Did anyone at the company or  
 21 counsel's office ever give you or show  
 22 you a copy of that document?  
 23 A. No.  
 24 Q. Was that your signature?

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1 A. Yes.  
 2 MS. WHITE: Let's mark this  
 3 as Exhibit No. 15.  
 4 - - -  
 5 (Exhibit Portlock-15 was marked  
 6 for identification.)  
 7 - - -  
 8 BY MS. WHITE:  
 9 Q. That's your signature?  
 10 A. Yes.  
 11 Q. Is that your handwriting in  
 12 the text of the note?  
 13 A. Yes.  
 14 Q. Is it true that Kathy Koch  
 15 returned training material and four keys  
 16 to you on March 12, 1998?  
 17 A. That would be true.  
 18 Q. Do you recall now the volume  
 19 of training material, the amount, the  
 20 description, the characteristics of the  
 21 training material returned to you?  
 22 A. No.  
 23 Q. Do you recall that she  
 24 returned to you a flip chart on March the

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1 12th?  
 2 A. No. She did not return a  
 3 flip chart.  
 4 Q. How do you know that?  
 5 A. Because it's stated in the  
 6 center I had to complete the training.  
 7 Q. So the flip chart that she  
 8 had been using in the training stayed in  
 9 the center for the final day of training  
 10 or the next ensuing days of training on  
 11 Friday the 13th and Saturday the 14th?  
 12 A. The flip chart that she had  
 13 been using was the new flip chart that I  
 14 had delivered to the center that Sunday  
 15 night that I made.  
 16 Q. You made the flip chart?  
 17 A. Over the weekend. That is  
 18 correct.  
 19 Q. And you delivered it to Bel  
 20 Air --  
 21 A. On a Sunday.  
 22 Q. -- on Sunday night?  
 23 Sunday, March the 8th?  
 24 A. It was actually in the